



DEPARTMENT OF THE INTERIOR

INFORMATION SERVICE

FISH AND WILDLIFE SERVICE

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LARGE DAMAGE SUIT DECIDED IN FAVOR OF FISH AND WILDLIFE SERVICE

A damage suit for \$835,000, which 22 groups of plaintiffs brought against the Fish and Wildlife Service, alleging that Service structures on the Lac Aux Mortes National Wildlife Refuge in North Dakota caused the flooding of nearby private lands, was decided in favor of the Service by the U. S. Court of Claims on July 15, the Department of the Interior announced today.

The judges ruled that "plaintiffs' lands were damaged by reason of adverse weather conditions, the topography of the area, and the inadequate outlet of Lake Irvine, but not as a result of the activities of the Fish and Wildlife Service in connection with the establishment and maintenance of the migratory waterfowl refuges." By unanimous decision, the court concluded that the plaintiffs were neither legally nor equitably entitled to recover and the petition was dismissed.

The suit was filed on October 12, 1956, in accordance with a special jurisdictional act to recover damages and covered the period from 1940 to 1956. The tracts of land involved are situated in North Dakota in the vicinity of Lake Alice (or Lac Aux Mortes) and Lake Irvine, in Ramsey County, north of Devils Lake.

The Lac Aux Mortes Refuge (locally known as Lake Alice) was established in 1935. It was one of numerous easement refuges established in North Dakota during the drought period of the 1930's as a part of the cooperative program of the Fish and Wildlife Service to relieve drought conditions and to provide employment for many of the people on relief.

Numerous flooding easements were acquired by the United States around the shoreline of Lake Alice. Dams, dikes, and ditches were constructed by the Service to divert natural water courses and drainage areas in order to restore water in dry or nearly dry lakes in the Mauvais Coulee area so as to create migratory waterfowl refuges.

The plaintiffs in the case, who were owners and farm operators or tenant farmers on a sharecropping basis, endeavored to prove that these structures built by the Service caused the floodings.

In refuting the claims, the Government contended that there were ample records to show that the plaintiffs' lands suffered from flooding long before any structures were built by the Service. Since the first official survey by the General Land Office in 1883, these lands had had a history of intermittent and periodic flooding during wet years. The Government surveyor in that year designated them as wet meadow or marshlands.

Following the extreme drought conditions of the 1930's, there occurred years of abnormal precipitation in North Dakota and over the drainage basin in which Lac Aux Mortes, and nearby Lake Irvine, are situated. The lakes form a natural sump without adequate outlet and in periods of excess precipitation surrounding lands have been flooded.

Spring runoffs were greatest in the years 1948 through 1951, and in 1955 and 1956. Flooding occurred in varying degrees in 1942, 1945 through 1951, and in 1954 through 1956.

The amount of water which drained into the Lake Alice-Lake Irvine-Chain Lake area in some years exceeded the reservoir capacities of the lakes and the capacity of the outlet of Lake Irvine, the lower of these lakes, to discharge. Because these lands were low, in comparison with the surrounding countryside, and had poor drainage, the water stood for substantial periods of time until it was too late to plant crops. In 1954 the flooding was not due to spring runoff but followed heavy rainfalls in May and June after the farmers had put their lands into crop and the growing crops were destroyed.

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